

Defendants.

No. 5:23-CV-00532-FL

sandwiches, ice cream cakes (whether birthday-related or otherwise), gender reveal cakes, dog margaritas, dog smoothies, dog shakes, and anything of a similar offering. Defendants shall be further barred from advising any customer, media figure, or any third-party that ice cream will return at any particular point in time; provided, however, that the term “Competitive Business” shall not apply to (a) any business operated by Franchisee under a Franchise Agreement with Franchisor, or (b) any business operated by a publicly-held entity in which Franchisee owns less than a five percent (5%) legal or beneficial interest. For the avoidance of any doubt, a Competitive Business is any business that offers any dog product or service;

(b) “Franchised Business” or “Salty Paws Business” means the Salty Paws Business intended to be established and operated by Amanda Moody pursuant to the Franchise Agreement by and between certain Plaintiffs and certain Defendants;

(c) “Mark” or “Salty Paws Mark” means the service and logo marks for “Salty Paws” and such other trade names, trademarks, service marks, trade dress, designs, graphics, logos, emblems, insignia, fascia, slogans, drawings, and other commercial symbols as Plaintiffs designated to be used in connection with the Salty Paws Business;

An injunction be and is hereby entered against each of the Defendants, jointly and severally, together with their respective officers, agents, servants, employees, and attorneys, and any other persons who are in active concert or participation with Defendants (hereinafter, the “Defendant Parties”), which shall remain in force and effect, by agreement, up to and including November 10, 2025 (or two years from Defendants’ full compliance with the terms hereof, whichever is later), as set forth below:

1. Enjoining each of the Defendant Parties from directly or indirectly offering Competitive Business services located or operating at or within a ten (10) mile radius of the Franchised Business;

2. Enjoining each of the Defendant Parties from directly or indirectly offering Competitive Business services located or operating within a ten (10) mile radius of any other Salty Paws Business in existence at the time of termination or expiration;

3. Enjoining each of the Defendant Parties from directly or indirectly offering Competitive Business services located or operating any other business owned or operated by Plaintiffs in existence as of the entry of this Stipulated Injunction and Dismissal Order;

4. Enjoining each of the Defendant Parties from using the Salty Paws Mark or any other confusingly-similar name, device, mark, trademark, trade name, slogan, or symbol used in connection with any Salty Paws franchise, including any reproduction, counterfeit copy, variation, emulation, or colorable imitation thereof in a manner which is likely to cause confusion or mistake or deceive the public;

5. Enjoining each of the Defendant Parties from employing or seeking to employ any person who is employed by Salty Paws or any Salty Paws franchise, or otherwise induce or seek to induce such person to leave his or her employment;

6. Within ten (10) days of the date of this Order, Defendants shall deliver to Plaintiffs all operating manuals, proprietary information, confidential material, marketing and advertising materials, customer lists, and any other written materials containing any of Salty Paws' trademarks, confidential information, or otherwise related to Defendants' former Franchised Business, within Defendants' possession, custody, or control;

7. Defendants shall cease using any of Plaintiffs' distinctive, proprietary, or confidential operational, administrative, or advertising techniques, systems, or know-how, or trade secrets that Plaintiffs disclosed to Defendants;

8. Enjoining Defendants from holding themselves out as current or former Salty Paws franchisees;

9. Enjoining Defendants from making, publishing, or communicating to any person or entity, or in any public forum any defamatory or malicious remarks, comments, or statements concerning Salty Paws or any member of Salty Paws or any employee of Salty Paws. Defendants, Ashton Edens and House of Dogs, LLC, are further enjoined from speaking to any current, former (other than Amanda Moody), or prospective franchisees of the Salty Paws franchise system.

10. Enjoining Defendants' officers, agents, servants, employees, and attorneys, and any other persons who are in active concert or participation with Defendants or their respective officers, agents, servants, employees, or attorneys, from interfering or hindering Defendants' compliance with the terms of the Franchise Agreement;

11. Should Defendants' actions result in Plaintiffs moving to enforce this Stipulated Injunction, including, but not limited to, filing a subsequent motion for a temporary restraining order and/or preliminary injunction, if successful, Plaintiffs shall be entitled to their attorneys' fees and costs;

12. Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), Plaintiffs and Defendants, by and through their respective counsel, stipulate to the dismissal of all claims in this case without prejudice and, other than as set forth herein, with each party to bear its/his/her on costs and attorneys' fees.

13. Nothing herein prevents the parties from privately agreeing to limit or modify the foregoing injunction, nor prevents the parties from privately agreeing to settle any disputes that may arise concerning compliance with the foregoing injunction or not to enforce breaches of the alleged injunction under agreed upon circumstances.

14. The Court shall retain jurisdiction of this dispute to enforce this Stipulated Injunction.

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[SIGNATURE PAGE TO FOLLOW]

This 10th day of November, 2023.

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SCARBOROUGH, LLP**

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Attorneys for Defendants

AND ORDERED in New Bern, North Carolina, on
January 29, 2024.

Louise W. Flanagan

LOUISE W. FLANAGAN
United States District Judge